

Date: Aug 26 2021

KEVIN P. WEIMER , Clerk
By: Sonya Nuckolls
Deputy Clerk

United States District Court

NORTHERN DISTRICT OF GEORGIA

UNITED STATES OF AMERICA

v.

JOEL CHRISTIAN BERRY

CRIMINAL COMPLAINT

Case Number: 1:21-MJ-0825

I, the undersigned complainant depose and state the following is true and correct to the best of my knowledge and belief. On or about August 12, 2021 in Gwinnett County, in the Northern District of Georgia, defendant, JOEL CHRISTIAN BERRY, did, knowingly possess a firearm, as that term is defined in Title 26, United States Code, Sections 5845(a)(3) and (c), that is, a Palmetto State Armory, PA-15, bearing serial number SCB100369, a rifle having a barrel or barrels of less than 16 inches in length, and which was not registered to him in the National Firearms Registration and Transfer Record,

in violation of Title 26, United States Code, Sections 5841, 5845(a)(3) and (c), 5861(d), and 5871.

I further state that I am a Special Agent and that this complaint is based on the following facts:

PLEASE SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof. Yes



Signature of Complainant
Jason Dykes

Based upon this complaint, this Court finds that there is probable cause to believe that an offense has been committed and that the defendant has committed it. Sworn to me by telephone pursuant to Federal Rule of Criminal Procedure 4.1

August 26, 2021

Date

at Atlanta, Georgia

City and State

RUSSELL G. VINEYARD
UNITED STATES MAGISTRATE JUDGE

Name and Title of Judicial Officer
AUSA Amy M. Palumbo
amy.palumbo@usdoj.gov

Signature of Judicial Officer



I, Jason D. Dykes hereby depose and state under penalty of perjury:

Introduction and Agent Background

1. I have been a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) since November 10, 2019. While at the ATF Academy, I received extensive training in conducting federal investigations, including interviewing witnesses, conducting surveillance, and making arrests. I am currently assigned to the ATF Atlanta Field Office, and am responsible for investigating crimes, including gun violence, illegal possession of firearms, and commercial business robberies in the Atlanta metro area. Before becoming a Special Agent with ATF, I was employed as a Special Agent with the United States Secret Service from 2011-2019. During my tenure there, I was involved in investigating financial crimes and the counterfeiting of U.S. currency, conducting interviews, serving search warrants, effecting arrests, and physical protection of the President of the United States and others.

2. As an ATF Special Agent, I am a federal law enforcement officer as described in Title 18, United States Code Section 2510(7), and am responsible for investigating and enforcing violations of federal law. As part of those investigations, I conducted physical surveillance and electronic surveillance. I have been involved in the execution of various types of arrest and search warrants, which resulted in the seizure and review of electronic evidence related to those investigations. I have analyzed telephone toll records. Through my training, education, and experience, I have become familiar with the manner in which members of a criminal organization communicate, contact each

other, and use electronic communication devices to store, transmit, and distribute information to one another, and how they plan, organize, and carry out their criminal activity utilizing surreptitious meetings at their residences and/or a predetermined location. I am personally familiar with and have used all normal methods of investigation during my ATF tenure, including, but not limited to, review of online message board system accounts, informant and witness interviews, and undercover operations.

3. The facts contained in this affidavit come from my personal observations, ATF records/documents, my training and experience, information obtained from other agents and witnesses, and other law enforcement agencies. This affidavit is intended to show that there is sufficient probable cause for the requested criminal complaint authorizing the arrest of Joel BERRY for violations of 26, United States Code, Section(s) 5841, 5845(a)(3) and (c), 5861(d), and 5871, and does not set forth all my knowledge about this matter.

PROBABLE CAUSE

1. On July 22, 2021, I received criminal intelligence regarding Joel Christian BERRY possessing or manufacturing Glock Conversion Devices (“GCD”).

2. On July 23, 2021, ATF Special Agent Donald Weller, ATF Task Force Officer Bodie Dickerson, and I travelled to Flying Monkey Firearms located at 382 Swanson Rd. Lawrenceville, GA, and spoke with J.W. and J.M.; the Federal Firearms License for this business lists J.W. as one of the responsible persons.

3. Flying Monkey Firearms is equipped with audio and video surveillance; many of the interactions that J.M. described to me about BERRY were captured on the store's surveillance.

4. J.M. stated that on July 20, 2021, an individual who identified himself as BERRY and who provided a Georgia's driver's license came to Flying Monkey Firearms to have engravings etched into slides, which are a component part of a firearm. Some of the engraving BERRY requested included "We The People," "Nerf," and "Fuck ATF."

5. BERRY's July 20 visit to Flying Monkey Firearms was captured on the store's video surveillance. At one point BERRY showed J.M. a photo on his cellular phone. BERRY stated that the image, "is for AirSoft."

a. Based on my training and experience, BERRY is referring to the AirSoft brand of low-power smoothbore air guns designed to shoot non-metallic spherical projectiles often colloquially (but incorrectly) referred to as "BBs." AirSoft guns are not considered firearms under Federal Law because they do not expel a projectile by means of fire or explosion; however, based on my training and experience, they can be converted into a firearm, or their component parts can be used in a firearm. At times, particularly when AirSoft-type-products are imported to the United States, they will be labelled "AirSoft," but the part may function in a firearm.

6. Another individual who was present, R.C., asked Berry, "How can I get one?" BERRY replied, "Talk to me and I will order it for you...I have a place I order it."

BERRY and R.C. scrolled through BERRY's phone and BERRY stated, "I just got tracking two days, then it said accepted by Russian Federation. Comes from Russia." R.C. looked at the picture on the phone and replied, "Actually that's not illegal, you just have to buy a stamp for it, if you wanna make it legal." BERRY asked "for that sheet metal piece. I can put that in a regular AR, I've seen them in MAC-11." R.C. replied, "Full auto sear." BERRY and R.C. then talked about a "lightning link full auto sear." BERRY stated, "But for the other, I can mill out the AR lower." BERRY explained that there has to be enough room in the back. BERRY advised that, "its legal because they put 80% or airsoft on it."

- a. Based on my training and experience, I believe R.C. is referring to a National Firearms Act tax stamp. Based on my investigation discussed later in this affidavit, I believe that R.C. and BERRY are discussing devices that will convert a semi-automatic firearm into a machine gun. Additionally, I believe that BERRY is stating that he can order AirSoft parts that can function in a firearm. Most new AR variant lower receivers have extra material on the inside between the trigger housing and the rear of the firearm. BERRY is explaining that he can mill out the lower receiver of an AR variant firearm so that a drop-in sear will fit, rendering it capable of functioning as a machinegun.

7. During this visit, BERRY offered to 3-D print firearm parts, but explained that his Glock 3-D prints have "an issue with the rail."

a. Based on my training and experience, I believe that BERRY is explaining that he can 3-D print a replica or variant of a Glock-type frame, but that BERRY's final products have fit and tolerance problems.

8. Additionally, BERRY showed an image to R.C. on BERRY's cellular phone. BERRY stated that the item in the picture worked and that he would bring one in to show them. Based on my observation of the photograph that BERRY showed J.M., as captured on the store's video surveillance, the image appears to be a GCD.

9. On July 26, 2021, BERRY returned to Flying Monkey Firearms. While BERRY was there, he provided a clear plastic bag to J.M. that contained what appeared to be a GCD for J.M. to test. BERRY explained to J.M. how to assemble the device. BERRY stated that he did not know if the GCD's would work, but that he has sold approximately 30 of these devices he had printed for \$100.00 each. BERRY also told J.M. that he has "40 built P80's at my house, completed, they ain't frames no more." BERRY stated that he can 3-D print the trigger housing for Glock's and AR variant receivers.

10. That day, J.M. contacted ATF TFO Bodie Dickerson about the items left by BERRY. J.M. provided me with the clear plastic bag BERRY gave to him. When assembled, the parts in the clear plastic bag make a completed GCD. ATF SA Weller and I assembled the GCD and installed it on to the rear of a Glock slide. Due to ATF operating procedures, the GCD must be sent to the Firearms and Ammunition Technology Division for a determination of operability; this is pending. The items from the clear

plastic bag appear to be mostly made of plastic, which is the typical material that an at-home 3-D printer would produce. The bag of parts is depicted here:



11. J.M. also informed me that while he was at the shop, BERRY showed him his cellular phone and stated that he had a shipment coming into Atlanta from Russia that was currently in New York. BERRY asked J.M. if he could pay J.M. for services by giving him a drop in auto sear and GCD for a pistol and AR variant from the shipment he was expecting. BERRY described to J.M. how the device functions in an AR-type firearm, explaining that the drop in auto sear sits in the back of the AR lower receiver and causes the firearm to continue to cycle or fire as a machinegun.

12. Additionally, BERRY told J.M. about a man in North Carolina who he knows is making auto sears and that BERRY has inquired about purchasing them. BERRY also told J.M. about a silencer he ordered from China and that he has been unable to find Glock parts on Chinese websites.

13. As described in ¶ 9 above, BERRY told J.M. that he has forty P-80's that he sells for around \$800 per firearm. BERRY told J.M. that he builds about 2-3 firearms per

week, in excess of the amount he is selling. BERRY showed J.M. a picture of one of the firearms in a safe in his house.

- a. Based on my training and experience, I believe that BERRY is referring to Polymer 80 lower receiver kits, which are a kit that an individual can make into an operable firearm by drilling a hole to hollow the fire control area of a pistol or rifle.

14. J.M. provided me with a copy of the work order for BERRY's laser engraving that included a copy of BERRY's Georgia Driver's License. Additionally, J.M. gave me BERRY's telephone number of 678-758-0718 and Georgia License Plate number of CMS1189. I reviewed a copy of BERRY's Georgia driver's license, which lists 870 McCart Rd. Lawrenceville, GA, which is located in the Northern District of Georgia, as his address. BERRY's driver's license lists his date of birth as December 5, 2001, meaning he is 19 years of age.

15. On July 28, 2021, United States Postal Inspector Jeff Maddox informed me that telephone number 678-758-0178 subscribed for "text updates" to receive tracking information for a package that originated in Russian Federation. The requested updates were for parcel tracking number: RR130641102RU ("the package"). The package is addressed to Nathan Lee at 22 Simonton Rd., Lawrenceville, GA. A CLEAR database check indicated that telephone number 678-758-0178 is registered to Joel BERRY at 870 McCart Rd. Lawrenceville, GA. With further investigation, I was able to determine that an IP address was tracking the package or had tracked the package. Additionally, on this

date, J.M. reported to me that BERRY sent him a text that stated, “Cleared Customs.”

Based on my knowledge of this case, I believe BERRY is referring to the above-mentioned package.

16. On or about July 30, 2021, the package was inspected by Officers of the United States Department of Homeland Security (DHS), Customs and Border Protection (CBP) at John Fitzgerald Kennedy Airport in Queens, NY. The package manifest lists the contents as being “parts for motorcycle.” Pursuant to DHS CBP border search authority, CBP searched the package and the items depicted below were contained therein:



17. Based on my training and experience, the item on the left of the above picture is a drop in auto sear for an AR variant type firearm. The other two items, when put together, make a complete GCD.

18. On August 2, 2021, Homeland Security Investigations (HSI) Special Agent (SA) Kelly Diaz provided me with records that show incoming packages for both the 870 McCart Rd. and 22 Simonton Rd. These records indicate that an individual named Nathan Berry has received packages at both addresses that originated from foreign countries.

19. On or about August 5, 2021, a package was inspected by Officers of the United States Department of Homeland Security (DHS), Customs and Border Protection (CBP) at John Fitzgerald Kennedy Airport in Queens, NY. The package manifest lists the contents as being “Solvent Trap.” This package is addressed to Joel BERRY at 870 McCart Rd. Lawrenceville, GA. Pursuant to DHS CBP border search authority, CBP searched the package and the items depicted below were contained therein:



20. Based on my training and experience, the items in the above picture, the size and configuration of these items when assembled could function as a silencer to reduce the report of a firearm. Furthermore, this design is consistent with a monolithic silencer, with an indexing mark on the end cap. The only purpose of the indexing mark is to serve as a guide, for a drill bit, to readily convert this item, when assembled into a functioning silencer.

21. ATF agents checked the ATF National Licensing Center (NLC) records and determined that BERRY did not have a Federal Firearms License to engage in business as a firearms or ammunition importer, manufacturer, dealer, or collector nor has BERRY submitted any applications to ATF to register, transfer, or apply to make any firearm. BERRY is likewise ineligible to have a Federal Firearms License because he is under twenty-one years of age.

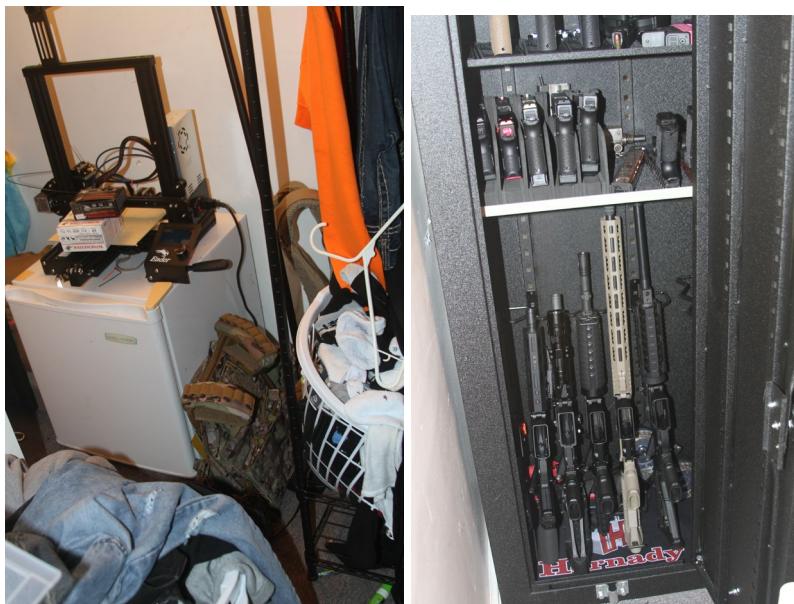
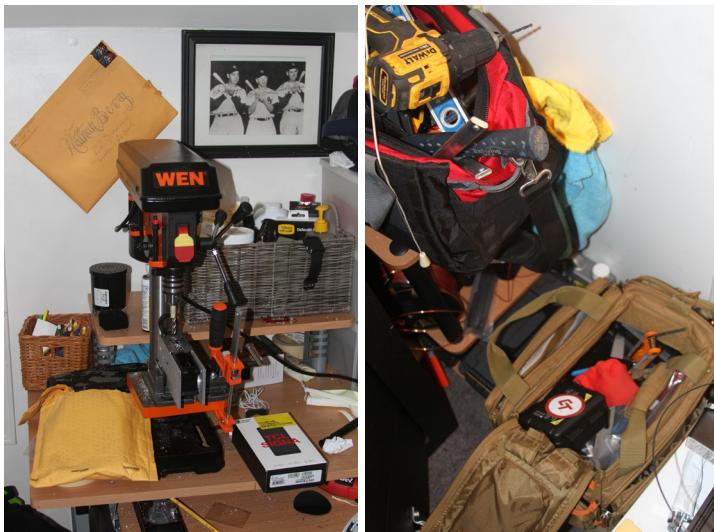
22. On August 12, 2021, ATF Special Agents, other Federal Agents, and local law enforcement officers executed search warrant 1:21-MC-1591 signed by the Honorable Christopher C. Bly, United States Magistrate Judge, at BERRY's residence, 870 McCart Rd. Lawrenceville, GA 30045. ATF Special Agents encountered BERRY at the front door.

23. During the course of the search, agents found various firearms, ammunition, firearms parts, magazines, an Ender 3-D printers, and tools and equipment to manufacture firearms in an upstairs room connected to a bedroom that BERRY identified as his bedroom. BERRY admitted that all firearms found upstairs at the location were his. Agents also discovered keys to a safe located in a room located off of BERRY's bedroom.

24. During the search, agents recovered fifteen privately manufactured firearms, six AR-variant firearms, two pistols, a quantity of ammunition, multiple high-capacity magazines, and a green ammunition can with parts that would be needed to

complete firearms. Based on my training and experience, the parts located in the green ammunition can are parts needed to complete a Glock-style firearm.

25. In the room off of the bedroom, Agents observed a WEN drill press that appeared to be in the process of drilling a metal unfinished “receiver” in order to convert it to an operable firearm. The WEN drill press, various tools, a 3-D printer, and various firearms found in the bedroom are pictured below:



26. While inventorying the firearms seized during the search warrant, an AR-variant firearm was identified as a possible short-barreled rifle. Additionally, agents recovered several stocks in close proximity to where this AR-variant firearm was recovered. These stocks can be readily affixed to this AR-variant firearm. This AR-variant firearm was identified as a Palmetto State Armory, PA-15, bearing serial number SCB100369. Agents reviewed the 4473 Firearms Transfer Record for this AR-variant firearm from Hilltop Pawn Shop located at 1882 Athens Highway Snellville, GA 30078, which is a Federal Firearms Licensed location. The ATF 4473 Firearms Transfer Record indicates the AR-variant firearm is a rifle and Hilltop transferred the rifle to BERRY. SA Dykes spoke with a representative at Hilltop Pawn and the representative stated that these firearms came into the business as a fully assembled lower receiver in a rifle configuration. The representative further advised that this rifle lower was transferred without an upper receiver. This means that the upper receiver and barrel of the AR-variant was added to the lower receiver after it was transferred into BERRY's possession.

27. Based on my training and experience, when a firearm is transferred from a Federal Firearms Licensed location, the firearm must be identified by type, i.e. rifle, shotgun, pistol, receiver, firearm, receiver, etc. Once a firearm is transferred out as a rifle, the firearm can only be a rifle and cannot be made into any other type of firearm such as a pistol.

28. Additionally, in the safe were two fully assembled rifles that had barrels lengths that are 16 inches or greater. As seen in the photo of the safe in ¶ 25 above, the

two firearms on the lower shelf on the right—the standard rifles—are noticeably longer than the firearm to their left, which is the short-barreled rifle.

29. Special Agent Allan McLeod, who has knowledge and experience regarding the identification, origin, and classification of firearms and ammunition, confirmed that the recovered AR-variant firearm is a rifle, was manufactured in Summerville, South Carolina, and had travelled in interstate or foreign commerce.

30. ATF Special Agent David Diaz and I measured the barrel length and overall length of the rifle. The barrel length is approximately 13 inches and the overall length of the firearm is approximately 27 inches in length. Based on the fact that the barrel length is less than 16 inches—the minimum barrel length allowed—this rifle meets the definition of a short-barreled rifle. Anything under those measurements would require registration in the National Firearms Registry and Transfer Record (“NFRTR”). The NFRTR is a database administered by the ATF. A database check of the National Firearms Registry and Transfer Record, based on BERRY’s name, date of birth, and Social Security Number showed no record for BERRY.

CONCLUSION

31. Based on the foregoing, there is probable cause to believe that on August 12, 2021, Joel BERRY violated Title 26, United States Code, Sections 5841, 5845(a)(3) and (c), 5861(d), and 5871 in the Northern District of Georgia.